	i e e e e e e e e e e e e e e e e e e e	
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6	Sacramento, CA 95814-7243 Telephone: (916) 323-0435	Filing Clerk
7	Facsimile: (916) 323-0438	
8	Attorneys for Complainant	
9		
10	BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE	
11	OF THE STATE OF CALIFORNIA	
12		
13	IN THE MATTER OF:	DMHC No.: 06-125
14	Santa Cruz Mantaray Managad Madical	OAH No.:
15	Santa Cruz – Monterey Managed Medical Care Commission dba Central Coast Alliance for Health	CEASE AND DESIST ORDER AND NOTICE OF RIGHT TO HEARING
16		(Health and Safety Code section 1375.1;
17 18	Respondent.	California Code of Regulations, title 28, section 1300.75.1(a))
19		
20	TO: SANTA CRUZ-MONTEREY	
21	MANAGED MEDICAL CARE COMMISSION DBA CENTRAL COAST ALLIANCE FOR HEALTH 1600 GREEN HILLS ROAD	
22		
23	SCOTTS VALLEY, CALIFORNIA	95066
24	The Director of the Department of Managed Health Care, by and through her	
25	designee, Assistant Deputy Director Amy L. Dobberteen, after investigation, determines as	
26	follows:	
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-	,	

I.

INTRODUCTORY STATEMENT

1. Santa Cruz-Monterey Managed Medical Care Commission (Santa Cruz or the Plan) is now, and has been since June 20, 2000, a full service health care plan (File No. 933-0401) licensed pursuant to Health and Safety Code section 1353. Santa Cruz's principal place of business is located at 1600 Green Hills Road, Scotts Valley, California 95066. Santa Cruz is subject to the Knox-Keene Health Care Service Plan Act of 1975, as amended, ("Knox-Keene Act" (Health and Safety Code section 1340 et. seq.)), and Title 28 of the California Code of Regulations (the Code of Regulations) promulgated pursuant to the Knox-Keene Act.

II.

STATUTORY AUTHORITY

- 2. The Director is vested with the responsibility to administer and enforce the Knox-Keene Act. The intent and purpose of the Knox-Keene Act is to promote the delivery and quality of health and medical care to the people of California who enroll in a health care service plan. (Health & Safety Code section 1342.)
- 3. Health and Safety Code section 1375.1(a) states in relevant part, "[e]very plan shall have and shall demonstrate to the director that it has all of the following: (1) a fiscally sound operation and adequate provision against the risk of insolvency."
- 4. California Code of Regulations, title 28, section 1300.75.1(a), states in relevant part:

A plan shall demonstrate fiscal soundness and assumption of full financial risk as follows: (1) Demonstrate through its history of operations and through projections (which shall be supported by a statement as to the facts and assumptions upon which they are based) that the plan's arrangements for health care services and the schedule of its rates and charges are financially sound, and provide for the achievement and maintenance of a positive cash flow, including provisions for retirement of existing and proposed indebtedness. (2) Demonstrate that its working capital is adequate, including provisions for contingencies. (3) Demonstrate an approach to

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the risk of insolvency which allows for the continuation of benefits for the duration of the contract period for which payment has been made . . .

5. The Director is empowered to enforce compliance with the Knox-Keene Act by Health and Safety Code section 1391(a)(1), which provides in relevant part:

The director may issue an order directing a plan, solicitor firm, or any representative thereof, a solicitor, or any other person to cease and desist from engaging in any act or practice in violation of the provisions of this chapter, any rule adopted pursuant to this chapter, or any order issued by the director pursuant to this chapter.

III.

STATEMENT OF FACTS

- 6. On December 19, 2005, the Department of Managed Health Care (the Department) began a routine examination of Santa Cruz. That examination is still in process.
- 7. During the examination, the Department reviewed Santa Cruz's risk sharing arrangements with its providers.
- 8. Section c(7) of Santa Cruz's risk sharing agreement states that a risk share surplus distribution will be paid provided that the Risk Group Risk Sharing Pool total is in surplus.
 - 9. In 2004, Santa Cruz posted net income of \$4,769,255.
- 10. In 2004, Santa Cruz's overall surplus distribution was not in surplus, but was in deficit.
- 11. Despite this deficit, in April 2005, Santa Cruz paid to its providers a surplus distribution of approximately \$4,800,000.
 - 12. Santa Cruz has posted a net loss of \$12,246,973 for 2005.
 - 13. Santa Cruz's overall surplus distribution is in deficit for 2005.
- 14. For the last thirteen (13) months, through January 2006, Santa Cruz has been losing money at the rate of approximately \$1 million a month.

- 15. For the month ended January 2006, Santa Cruz posted a loss of \$685,170.
- 16. Santa Cruz's working capital as of January 31, 2006 was negative, with current assets totaling \$41,992,501 versus current liabilities that total \$46,275,708.
- 17. The Plan's cash flow provided by operating activities for 2005 was negative \$11,046;067.
- 18. At the rate of \$1 million per month in losses, Santa Cruz will sustain a negative Tangible Net Equity by May of 2007.
- 19. Based on the above facts, the Department has determined that the financial viability of Santa Cruz is seriously threatened.
- 20. Santa Cruz has advised the Department that it is preparing to issue a risk share surplus distribution on or about April 14, 2006.
- 21. Payment of the anticipated risk share surplus distribution in light of the continuing losses and the deficit in the surplus distribution fund for 2005 constitutes an egregious act of financial irresponsibility.
- 22. Payment of a risk share surplus distribution for 2005 while the overall risk sharing pool is in deficit, violates Section c(7) of the Plan's provider contracts.
- 23. Based on the above facts, the Director has determined that Santa Cruz is not able to demonstrate a fiscally sound operation and adequate provision against the risk of insolvency.

IV.

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT, pursuant to Health and Safety Code section 1391 of the Knox-Keene Act, Santa Cruz is to cease and desist from allocating, assigning, disbursing, distributing or issuing any surplus distribution risk share payout for 2005 to its providers.

IT IS FURTHER HEREBY ORDERED THAT Santa Cruz seek written approval from the Department of Managed Health Care, by and through its agent, Mark Wright, prior to undertaking any allocation, assignment, disbursement, distribution, or issuance of any

surplus distribution risk share payout for 2005 to its providers. Approval from the Department of Managed Health Care may be sought by submitting a written request via facsimile to Mr. Wright at (916) 445-8399 upon determination by the Plan that it is fiscally sound, whereby the Plan may request that the Department withdraw this Order.

This Order shall be effective immediately and shall continue in full force and effect until further Order of the Director.

Dated: April 7, 2006

LUCINDA EHNES, Director Department of Managed Health Care

By:

AMY L. DOBBERTEEN Assistant Deputy Director

Department of Managed Health Care